

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

ANDRE NESBIT

Plaintiff,

V.

THE CITY OF INDIANAPOLIS, and
SPEEDWAY LLC

Defendants.

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Cause No. 1:23-cv-00702-JRS-MKK

**DEFENDANT’S RESPONSE IN OPPOSITION
TO PLAINTIFF’S MOTION FOR DEFAULT**

Defendant, the City of Indianapolis, by counsel, hereby objects to plaintiff's Motion for Default. In support, Defendant states:

1. Contrary to Plaintiff's assertions, Defendants have not failed to respond to his Second Amended Complaint. Defendants' Joint Motion to Screen, filed July 12, 2023, requested a stay of all case deadlines, which would extend to the Second Amended Complaint.

2. This Court gave Plaintiff until July 31, 2023, to Amend his first Amended Complaint. (Doc 27.) Until such window closes July 31, 2023, Plaintiff could very well file yet another Amended Complaint to serve as his operative pleading.

3. This Court has acknowledged that “[b]ecause Plaintiff is proceeding without prepaying the filing fee, the Court must review the sufficiency of the Complaint to ensure that the action is not frivolous, that it states a claim, and that it is not brought against a defendant that is immune. 28 U.S.C. § 1915(e)(2).” Doc.12, at 6.

4. Plaintiff has not been prejudiced.

5. Defendant renews its request for a stay of all deadlines pending screening.

6. In the alternative, Defendant asks for an extension of time until 22 days after July 31, 2023 to respond to any pleadings Plaintiff may file as late as July 31, 2023.

WHEREFORE, Defendant respectfully requests that Plaintiff's motion be denied.

Respectfully Submitted,

OFFICE OF CORPORATION COUNSEL

/s/ Jess Reagan Gastineau

Jess Reagan Gastineau (27303-53)

Deputy Chief Litigation Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on this Monday, July 31, 2023 a copy of the foregoing was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

I further certify that a copy of the foregoing was mailed to the *pro se* Plaintiff via United States Postal Service, first-class, postage prepaid to the following:

Andre Nesbit
3756 W Avenue 40
Suite K, #223
Los Angeles, CA, 90065-3666

/s/ Jess Reagan Gastineau
Jess Reagan Gastineau (27303-53)
Deputy Chief Litigation Counsel